

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In Re: AUTOMOTIVE PARTS ANTITRUST LITIGATION	: : : :	Master File No. 12-md-02311 Honorable Marianne O. Battani
In Re: Wire Harness Cases	: : : :	
THIS DOCUMENT RELATES TO:	: : : :	
All Automobile Dealer Actions	:	Child Case: W:12-cv-10002
All End-Payor Actions	:	Child Case: W:12-cv-10003
	: :	ORAL ARGUMENT REQUESTED

**DEFENDANTS' COLLECTIVE MOTION TO DISMISS THE END-PAYORS'
CORRECTED CONSOLIDATED AMENDED CLASS ACTION COMPLAINT AND
THE AUTOMOBILE DEALERS' CONSOLIDATED CLASS COMPLAINT**

INDEX OF EXHIBITS

- Exhibit A: Summary Of Defendants' Arguments For Dismissal Of Plaintiffs' (1) Individual State Law Antitrust Claims; (2) Individual State Law Consumer Protection Claims; And (3) Unjust Enrichment Claims
- Exhibit B: Index Of Authorities Cited In Appendices
- Exhibit C: Comparison Of Sixteen Statutes Cited By Auto Dealers With State Antitrust And Consumer Protection Statutes
- Exhibit D: Appendix Of Authority Supporting Argument That Plaintiffs Who Purchased Or Leased A Vehicle In Which A Wire Harness System Was A Component Part Cannot Demonstrate Antitrust Standing
- Exhibit E: Appendix Of Authority Supporting Argument That Auto Dealers And End-Payors Cannot Assert Retroactive Antitrust Claims Under The Antitrust Laws Of Hawaii, Nebraska, New Hampshire And Utah
- Exhibit F: Appendix Of Authority Supporting Argument That Plaintiffs' Allegations Fail To Establish A Sufficient Nexus Between Defendants' Conduct And *Intrastate* Commerce To State A Claim Under Antitrust Statutes In Nine States

- Exhibit G: Appendix Of Authority Supporting Argument That Plaintiffs Fail To Allege A Sufficient Nexus Between Defendants' Conduct And *Intrastate* Commerce As Required To State A Claim Under Consumer Protection Statutes Of Five States
- Exhibit H: Appendix Of Authority Supporting Argument That Plaintiffs Fail To Plead Fraud Or Deceit With Requisite Particularity, As Required By The Consumer Protection Laws Of Five States
- Exhibit I: Appendix Of Authority Supporting Argument That Plaintiffs Do Not Allege Any Unconscionable Conduct Or Other Aggravating Circumstances As Required By Five States
- Exhibit J: Appendix Of Authority Supporting Argument That Plaintiffs' Price-Fixing Claims Are Not Actionable Under The Consumer Protection Laws Of Eight States
- Exhibit K: Appendix Of Authority Supporting Argument That As Businesses, The Auto Dealer Plaintiffs Cannot Bring Consumer Protection Claims Under The Laws Of Seven States
- Exhibit L: Appendix Of Authority Supporting Argument That Unjust Enrichment Is Unavailable Where, As Here, A Party To A Voluntary Agreement Received The Benefit Of Its Bargain
- Exhibit M: Appendix Of Authority Supporting Argument That Plaintiffs' Unjust Enrichment Claims Fail In The Seven States That Require A Direct Benefit Conferred By Plaintiffs
- Exhibit N: *A&M Supply Co. v. Microsoft Corp.*,
No. 2741464, 2008 WL 540883 (Mich. Ct. App. Feb. 28, 2008)
- Exhibit O: *BC's Heating & Air and Sheet Metal Works, Inc. v. Vermeer Mfg. Co.*
No. 2:11-cv-136-KS-MTP, 2012 WL 642304 (S.D. Miss. Feb. 27, 2012)
- Exhibit P: *Beckler v. Visa U.S.A. Inc.*
No. Civ. 09-04-C-00030, 2004 WL 2475100 (N.D. Dist. Ct. Sept. 21, 2004)
- Exhibit Q: *California v. Infineon Techs. AG*,
No. C 06-4333 PJH, 2008 WL 1766775 (N.D. Cal. Apr. 15, 2008)
- Exhibit R: *Ciardi v. Hoffmann-LaRoche, Ltd.*
No. 993244, 2000 WL 33162197 (Mass. Super. Ct. Sept. 29, 2000)
- Exhibit S: *Cornelison v. Visa U.S.A. Inc.*,
Hearing Transcript, No. CIV 03-1350 (S.D. Cir. Ct. Sept. 28, 2004)
- Exhibit T: *Dahlgren v. Audiovox Commc'ns Corp.*,
No. 2002 CA 007884 B, 2012 WL 2131937 (D.C. Super. Ct. Mar. 15, 2012)

- Exhibit U: *Ferola v. Allstate Life Ins. Co.*,
No. 050996, 2007 WL 2705534 (Mass. Super. Ct. Aug. 30, 2007)
- Exhibit V: *Fucile v. Visa U.S.A. Inc.*
No. S1560-03 CNC, 2004 WL 3030037 (Vt. Super. Ct. Dec. 27, 2004)
- Exhibit W: *Ho v. Visa U.S.A. Inc.*
No. 112316/00, 2004 WL 1118534 (N.Y. Sup. Apr. 21, 2004)
- Exhibit X: *H-Quotient, Inc. v. Knight Trading Group, Inc.*,
No. 03-5889, 2005 WL 323750 (S.D.N.Y. Feb. 9, 2005)
- Exhibit Y: *In re Aftermarket Filters Antitrust Litig.*,
No. 08 C 4883, 2010 WL 1416259 (N.D. Ill. Apr. 1, 2010)
- Exhibit Z: *In re Estate of Verploegh*,
No. 303296, 2012 WL 1623525 (Mich. Ct. App. May 8, 2012)
- Exhibit AA: *In re iPhone Application Litig.*,
No. 11-MD-02250-LHK, 2012 WL 2126351 (N.D. Cal. June 12, 2012)
- Exhibit BB: *In re Magnesium Oxide Antitrust Litig.*,
No. 10-5943 (DRD), 2011 U.S. Dist. LEXIS 121373 (D.N.J. Oct. 20, 2011)
- Exhibit CC: *In re Microsoft Corp. Antitrust Litig.*,
Nos. MDL 1332, Civ. JFM-03-741 through JFM-03-748, 2003 WL 22070561
(D. Md. Aug. 22, 2003)
- Exhibit DD: *In re Plavix Indirect Purchaser Antitrust Litig.*,
No. 1:06-cv-226, 2011 WL 335034 (S.D. Ohio Jan. 31, 2011)
- Exhibit EE: *In re Refrigerant Compressors Antitrust Litig.*, Order Dismissing Indirect Purchaser
Pls.' Claims For Lack of Constitutional Standing, No. 2:09-md-02042-SFC
(E.D. Mich. July 10, 2012)
- Exhibit FF: *Ireland v. Microsoft Corp.*,
No. 00CV-201515, 2001 WL 1868946 (Mo. Cir. Ct. Jan. 24, 2001)
- Exhibit GG: *Isom v. NE Lots LLC*,
No. 288378, 2010 WL 143470 (Mich. Ct. App. Jan. 14, 2010)
- Exhibit HH: *Karofsky v. Abbott Laboratories*,
No. cv-95-1009, 1997 WL 34504652 (Me. Super. Ct. Oct. 16, 1997)
- Exhibit II: *Knowles v. Visa U.S.A. Inc.*,
No. CV-03-707, 2004 WL 2475284 (Me. Super. Ct. Oct. 20, 2004)

- Exhibit JJ: *Lerfald v. General Motors Corp.*,
Order re Certain Defendants' Motion to Dismiss Plaintiff's Consumer Fraud Act
Claim; Certain Defendants' Motion to Stay and Certain Defendants' Motion to
Dismiss for Lack of Personal Jurisdiction,
No. CT 03-003327 (Minn. Dist. Ct. Nov. 7, 2003)
- Exhibit KK: *Melnick v. Microsoft Corp.*,
Nos. CV-99-799, CV-99-752, 2001 WL 1012261 (Me. Super. Ct. Aug. 24, 2001)
- Exhibit LL: *Mueller Co. v. U. S. Pipe & Foundry Co.*,
No. Civ. 03-170-JD, 2003 WL 22272135 (D.N.H. Oct. 2, 2003)
- Exhibit MM: *Munson v. Countrywide Home Loans, Inc.*,
No. 08-13244, 2008 WL 5381866 (E.D. Mich. Dec. 17, 2008)
- Exhibit NN: *Perez v. RadioShack Corp.*,
No. 01-5095-CIV-SEITZ, 2002 WL 1335158 (S.D. Fla. Apr. 23, 2002)
- Exhibit OO: *Peterson v. Visa U.S.A. Inc.*,
No. Civ. A. 03-8080, 2005 WL 1403761 (D.C. Super. Ct. Apr. 22, 2005)
- Exhibit PP: *Quick v. Astrue*,
No. 3:10-cv-133-J-32JBT, 2011 WL 2149412 (M.D. Fla. May 10, 2011)
- Exhibit QQ: *Rivers v. Amato*,
No. CV-00-131, 2001 WL 1736498 (Me. Super. Ct. June 22, 2001)
- Exhibit RR: *Rosetta v. Moretti*,
No. 98-89, 2005 WL 1109638 (R.I. Super. Ct. May 4, 2005)
- Exhibit SS: *Russell v. Zeemering*,
No. 260660, 2006 WL 2382511 (Mich. Ct. App. Aug. 17, 2006)
- Exhibit TT: *Senne & Co., Inc. v. Simon Capital Ltd. P'ship*,
No. 93,302, 2007 WL 1175858 (Kan. Ct. Ap. Apr. 20, 2007)
- Exhibit UU: *Stark v. Visa U.S.A. Inc.*,
No. 03-055030-CZ, 2004 WL 1879003 (Mich. Cir. Ct. July 23, 2004)
- Exhibit VV: *Strang v. Visa U.S.A. Inc.*,
No. 03-011323, 2005 WL 1403769 (Wis. Cir. Ct. Feb. 8, 2005)
- Exhibit WW: *Weaver v. Cabot Corp.*,
03 CVS 04760, 2004 WL 3406119 (N.C. Super. Ct. Mar. 26, 2004)
- Exhibit XX: *Wittenberg v. First Independent Mortgage Co.*,
No. 3:10-CV-58, 2011 WL 1357483 (N.D. W.Va. Apr. 11, 2011)